IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 18TH MAY 2007 / 28TH VAISAKHA 1929

Bail Appl..No. 2863 of 2007()

(CRIME NO.23/07 OF AGALI POLICE STATION)
CRMP.1139/2007 of J.M.F.C., MANNARKAD
.....

PETITIONER/3RD ACCUSED

SOJAN,S/O.JOSEPH,
AGED 29 YEARS,
KALLARAKKAL HOUSE,
JELLIPPARA,AGALI,PALAKKAD DISTRICT.

BY ADV. SRI.V.A.AJAI KUMAR

RESPONDENTS: RESPONDENT/COMPLAINANT
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1. **STATE OF KERALA,**
   REP.BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

2. **THE SUB INSPECTOR OF POLICE,**
   AGALI POLICE STATION.

BY PUBLIC PROSECUTORSRI.V.T.K.MOHANAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2863 of 2007

Dated this the 12th day of September, 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Investigation is complete. Final report has already been filed. But the petitioner was not arrested and released on bail ever. According to the petitioner, he is innocent. His absence earlier was not wilful. He has no notice of the proceedings at all. The petitioner finds warrant of arrest issued by the learned Magistrate chasing him. He is willing to surrender before the learned Magistrate and claim regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific

direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself in the light of the decision in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-